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JUL 26 1995

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lee E. Snyder,
Trustee, Madelyne Snyder Trust
c/o A. Mark Segreti, Jr.
Young & Alexander Co., L.P.A.
P.O. Box 668 Mid-City Station
Dayton, Ohio 45402-0668

Re: Request for Information Pursuant to Section 104(e) of CERCLA
for the Sanitary Landfill Company (IWD) Superfund Site in
Moraine, Ohio

Dear Sir:

On April 17, 1995, you responded as trustee of the Madelyne Snyder Trust ("MST") to an Information Request issued by the United States Environmental Protection Agency ("U.S. EPA") regarding the above-referenced Superfund Site. The U.S. EPA has reviewed your response and it finds that your response is inadequate for the reasons discussed below.

You have failed to adequately respond to Requests 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15. Taken together, those requests ask for information regarding the establishment and administration of the MST, the income tax returns and financial statements of the MST, funding of the MST, the disposition of the assets of the MST, and your compensation as a trustee of the Trust. You assert that the Information Request does not seek relevant information under §104(e) of CERCLA. You are wrong. You may wish to have the court in the pending lawsuit resolve the disclosure of such information, but that is a right you do not enjoy.

Section 104(e) of CERCLA gives U.S. EPA authority to seek certain information relating to Superfund sites. Specifically, §104(e)(C) authorizes U.S. EPA to seek information "relating to the ability of a person to pay for or perform a cleanup." The information requests you failed to answer are clearly related to the ability of a person to pay for or perform a cleanup. They are precisely the type of information requests which the Court in United States v. Pretty Products, Inc., et al., 780 F. Supp. 1488 (S.D. Ohio 1991) held were enforceable by the district court.

You must provide the information requested notwithstanding its possible characterization as confidential information or a trade secret. You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by U.S. EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by U.S. EPA, it may be made available to the public by U.S. EPA without further notice to you. You should read carefully the above-cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim, as stated in Section 104(e)(7) of CERCLA.

Enclosed is a copy of the January 30, 1995 Information Request. You must answer Requests 4-15 within fourteen (14) days of receipt of this letter. Failure to respond fully and truthfully to each of these Requests, or to adequately justify such failure to respond, can result in enforcement action by U.S. EPA pursuant to §104(e)(5) of CERCLA which, as amended, authorizes the United States to seek penalties from a Federal Court of up to twenty-five thousand dollars (\$25,000) for each day of continued non-compliance. Indeed, Judge Rice recently entered a consent decree pursuant to which U.S. EPA, Region V received a civil penalty of \$1.2 million dollars from the Container Corporation as a result of its violations of §104(e) of CERCLA.

Please be further advised that "non-compliance" is considered by U.S. EPA to be not only failure to respond to the Requests but also failure to respond completely and truthfully to each request. Provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties of up to ten thousand dollars (\$10,000) or up to five (5) years of imprisonment or both under 18 U.S.C. Section 1001. The U.S. EPA has the authority to use the information requested herein in an administrative, civil or criminal action. This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501, et seq.

Your response to this Information Request should be mailed to:

Karen L. Peaceman, 5CS-29A
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region V
77 W. Jackson
Chicago, IL 60604

Please direct any legal questions you may have to Karen L. Peaceman at (312) 353-5751. If you have any technical questions, contact Kevin Turner at (312) 886-4444.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "L. Kyte", followed by a horizontal flourish.

Larry Kyte, Acting Chief
Solid Waste & Emergency Response Branch

Enclosure

cc: Kevin Turner ✓



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 30 1995

REPLY TO THE ATTENTION OF:

C-30A

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lee E. Snyder
Trustee, Madelyne Snyder Trust
1243 E. Social Row Rd.
Dayton, Ohio 45458

Re: Request for Information Pursuant to Section 104(e) of CERCLA
for the Sanitary Landfill Company (IWD) Superfund Site in
Moraine, Ohio.

Dear Sir or Madam:

The United States Environmental Protection Agency (U.S. EPA) has completed investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants or contaminants, at the Sanitary Landfill Company (IWD) Superfund Site, located at 1855 Cardington Road in Moraine, Ohio (hereinafter referred to as the "Site"). U.S. EPA has issued a Record of Decision for the Site, and will enter into negotiations with responsible parties for the cleanup of the Site later this year. U.S. EPA is investigating the ability of persons connected with the Site to pay for or perform a clean-up of the Site. It has been determined that you are a potentially responsible party ("PRP") for the Site, within the meaning of section 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9607, due to your position as a Trustee of the Madelyne Snyder Trust.

Pursuant to the authority of Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), you are hereby requested to respond to the Information Requests enclosed. Compliance with the enclosed Information Requests is mandatory. Failure to respond fully and truthfully to each and every Information Request within thirty (30) days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by U.S. EPA pursuant to Section 104(e)(5) of CERCLA which, as amended, authorizes the United States to seek penalties from a Federal Court of up to twenty-five thousand dollars (\$25,000) for each day of continued non-compliance. "Non-compliance" is considered by U.S. EPA to be not only failure to respond to the Requests but also failure to respond completely and truthfully to each Request. Please be further advised that provision of false,

fictitious, or fraudulent statements or representations may subject you to criminal penalties of up to ten thousand dollars (\$10,000) or up to five (5) years of imprisonment or both under 18 U.S.C. § 1001. The U.S. EPA has the authority to use the information requested herein in an administrative, civil or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

Your response to this Information Request should be mailed to:

Kevin Turner
Remedial Project Manager
U.S. Environmental Protection Agency, HSRM-6J
77 West Jackson Boulevard
Chicago, Illinois 60604

Please direct any legal questions you may have to John J. Breslin at (312) 886-7165. If you have any other questions contact Kevin Turner at (312) 886-4444.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond promptly and properly, U.S. EPA strongly encourages you to give this matter your immediate attention and to respond to these Information Requests within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,


Jane Lupton, Acting Chief
Solid Waste and Emergency Response Branch

Enclosure

cc: John Breslin, C-30A
Kevin Turner, HSRM-6J

INSTRUCTIONS

1. A separate response must be made to each of the questions set forth in this Information Request.
2. Precede each answer with the number of the Information Request to which it corresponds.
3. In answering each Information Request, identify all contributing sources of information.
4. If information not known or not available to the Respondent as of the date of submission of its response should later become known or available, Respondent must supplement its response to U.S. EPA. Moreover, should the Respondent find, at any time after the submission of its response that any portion of the submitted information is false or misrepresents the truth, respondent must notify U.S. EPA as soon as possible.
5. For each document produced in response to this request for Information, indicate on the document, or in some other reasonable manner, the number of the question to which it responds.
6. You must respond to the Information Request on the basis of all information and documents in your possession, custody or control or in the possession, custody or control of your former or current employees, agents, servants, contractors or attorneys. Furnish such information as is available to you, regardless of whether or not it is based on personal knowledge, and regardless of source.
7. Your response should be accompanied by a notarized affidavit from a responsible company official or representative stating that a diligent record search has been completed and that there has been a diligent interviewing process with all persons who may have knowledge of events or transactions which are the subject of these Requests. To the extent that any information you provide relating to these Requests is based on your personal knowledge, or the personal knowledge of your employees, agents, or their representatives, this information shall be in the form of a notarized affidavit.
8. If any documents requested herein have been transferred voluntarily or involuntarily to others or have been otherwise disposed of, identify each such document, identify the person to whom it was transferred, describe the circumstances surrounding such transfer or other disposition, and state the date or approximate date of such transfer or other disposition.

9. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 CFR 2.203(b). Information covered by such a claim will be disclosed by U.S. EPA only to the extent, and only by means of the procedures set forth in 40 CFR Part 2, Subpart B. [See 41 Federal Register 36902 et seq. (September 1, 1976); 43 Federal Register 4000 et seq. (December 18, 1985)]. If no such claim accompanies the information when it is received by U.S. EPA it may be made available to the public by U.S. EPA without further notice to you. You should read carefully the above-cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim, as stated in Section 104(e)(7)(ii) of CERCLA.

DEFINITIONS

For the purpose of the Instructions and Requests for Information set forth herein, the following definitions shall apply:

1. The term "you" or "Respondent" shall mean the addressee of the Request, and/or the addressee's officers, managers, employees, contractors, trustees, predecessors, successors, assigns, subsidiaries, and agents.
2. The term "person" as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. "The Site" or "The Facility" shall mean and include the entire property on which the Sanitary Landfill Company (IWD) Superfund Site, 1855 Cardington Road in Moraine, Ohio is located, referenced to as the Site.
4. The terms "furnish", "describe", or "indicate" shall mean turning over to U.S. EPA either original or duplicate copies of the requested information in the possession, custody, or control of the Respondent. Where specific information has not been memorialized in any document but is nonetheless responsive to an information request, you must respond to the request with a written response. If such requested information is not in your possession, custody, or control then indicate where such information or documents may be obtained.

5. The term "identify" means, with respect to a natural person, to set forth his full name, present or last known business address, the name of that employer and a description of the job responsibilities of such person.

6. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form (e.g. corporation, partnership, etc.) organization, if any, and a brief description of its business.

7. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance of the subject matter.

8. As used here, "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting (including by the way of illustration and not by way of limitation), any invoice, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements, and the like, diary, calendar, desk pad, scrap book, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc, or disc pack; and any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc or disc pack, tape or other type of memory and together with printouts of such punch card, disc or disc pack, video tape or other type of memory); including (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like of it, (c) drafts, (d) attachments to or enclosures with any documents and (e) every document referred to in any other document.

9. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these Information Requests any information which might otherwise be construed to be outside their scope.

REQUESTS

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests and provide copies of such documents.
3. If you have reason to believe that there may be persons who are able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.
4. Provide copies of all documents relating to the establishment and administration of the Madelyne Snyder Trust, including but not limited to all trust agreements, amendments, schedules of assets, and designation or resignations of trustees from 1977 until the present.
5. List the names of all persons who have served as trustee of the Madelyne Snyder Trust from 1977 until the present, as well as their dates of service.
6. Provide copies of all federal and state income tax returns for the Madelyne Snyder Trust from 1977 to the present.
7. Provide all Madelyne Snyder Trust financial statements from the date such trust was established until the present, including but limited to those filed with the Internal Revenue Service.
8. List all assets distributed from the Paul B. Snyder trust to the Madelyne Snyder Trust at any time, including all assets so distributed upon the death of Paul B. Snyder.
9. If you contend that the Madelyne Snyder Trust has never been funded or has never received assets from the Paul B. Snyder Trust, please explain why it has never been funded or received such assets and specifically address the asset distribution requirements under the terms of the Amended and Republished Paul B. Snyder Revocable Living Trust Agreement, dated November 5, 1982.
10. Describe the distribution of each asset from the Madelyne Snyder Trust to any other entity, including a beneficiary, trustee, or other trust. Include a complete description of the asset, its value, the recipient and the circumstances involved in the distribution. Provide copies of all documents related to such distribution.

11. Have you made any decisions (alone or together with any other trustee) regarding the distribution, sale, distribution of proceeds or other divestiture of trust assets? If your answer is anything other than an unqualified "no," identify the:
 - a. date of such action;
 - b. asset(s) involved;
 - c. value of asset(s) involved;
 - d. reason and authority for such action;
 - e. recipient of asset(s) and/or proceeds of sale of asset(s); and
 - f. the name of any other trustee consulted in such decision.
12. If you answered "no" to Information Request No. 11, identify that person or persons who made such decisions with respect to the distribution, sale, distribution of sale proceeds or other divestiture of Madelyne Snyder Trust assets.
13. Provide copies of all documents relating to the matters addressed in Information Requests 11 and 12.
14. Identify all current assets and liabilities of the Madelyne Snyder Trust and all persons who have knowledge of such assets and liabilities.
15. Provide information and all documents relating to compensation received by Respondent in this capacity as a trustee of the Madelyne Snyder Trust.